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COMPETENCY

OF THE

PARLIAMENTS

OF

GREAT BRITAIN & IRELAND *K*

TO

INCORPORATE THEIR LEGISLATURES:

WITH

SOME REMARKS

UPON THE DEBATE

IN THE IRISH HOUSE OF COMMONS

UPON THE ADDRESS.

BY THE AUTHOR OF THE

"NECESSITY OF AN INCORPORATE UNION BETWEEN GREAT BRITAIN AND IRELAND."

LONDON:

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COMPTON

PARLIAMENT

GEORGE IV



THE HOUSE OF COMMONS

SOME REMARKS

ON THE DEBATE

IN THE HOUSE OF COMMONS

UPON THE ADDRESS

A

OF THE HOUSE OF COMMONS

IN ANSWER TO A RESOLUTION PASSED BY THE HOUSE OF COMMONS

ON THE 14TH OF JANUARY 1833

LONDON

PRINTED FOR J. WRIGHT, STATIONER AND PRINTER, 15, N. B. STREET, LONDON.

1833

COMPETENCY,

&c. &c. &c.

A DIFFICULTY has been started upon the question of Union, which could not have been well foreseen by any man who had studied the principles of the British Constitution, as they are revealed in its practice.

It is said that the Legislatures of Great Britain and Ireland are incompetent to the measure.

Earl Stanhope has issued a proclamation, written in "King Cambyfes vein," to enforce the opinion. He has summoned the patriots with property, and the innumerable patriots without property, to meet and discuss the subject. The fans culotte Lord is a fit Talthybius for such an assembly. He wishes, even in this life, to me-

tamorphose the rich, as Lucian describes them metamorphosed in the fabled shades of Pagan Mythology. That humorous writer transforms them, after they have passed the irremeable Styx, into asses, who are to bear the burthens, and the blows, and the brutal caprices of the poor. The fancy of the Mennipean Satyrift, as it is protracted to a period when nobody can feel the mischief, is harmless and pleasant. If the proposal of the noble Peer is not equally innocuous, it may claim some kindred upon another account. The Poet has given a place to madness in the genealogy of wit.

Upon the people of England this nonsensical advertisement can make no impresson. After a short period, Lord George Gordon ceased to be dangerous. There are seasons when cunning malignity is beneath punishment. He who confounds notoriety with fame, is indeed sufficiently punished, if neither paradox nor sedition can drag him from oblivion. Condemned to the dark cell of obscurity, let the impotent libeller revolve upon forgotten pamphlets, and babble over exploded systems. His wild publications can excite no other sentiments among his countrymen than those of compassion or contempt.

The errors of some other persons deserve a more respectful answer. A few counties, innumerable pamphlets, and many Dublin corporations, have adopted the opinion in language the most unqualified and daring.

The Irish House of Commons has condemned the abstract question of an union upon the same principle. Looking over the printed accounts of their debates upon the address, which are, I dare say, incorrectly reported, I find no other arguments on that side of the question, except this assertion of legislative incompetency; a jocular apothegm attributed to Dr. Johnson; and the unimportance of the channel trade to Ireland!

If a trade, which equals in value half the landed rental of that kingdom, and exceeds, in the proportion of four-fifths, the total of her commerce with the remainder of the world, is of no consequence to Ireland, there is an end of all question upon the subject of union. It is at least, vain for us to press her to secure those advantages for ever, which are now revocable at the discretion of Great Britain. If this assertion is just, her prosperity is founded upon principles

different from those of every other nation in the world, and we have no common principle upon which it is possible to argue. Such notions give me little trouble. They will in time make their proper impression upon the good sense of the public.

But the question of legislative supremacy is one which cannot be suffered to linger for a moment in dispute. It concerns all climes, and countries, and ages, and degrees of civilization. Its real point is, whether a steady government is to exist in the world, or whether mankind are to resign themselves to a wild, capricious, and uncontrouled anarchy.

Every man who advances the position takes great responsibility upon himself. It admits but of one alternative. It is irresistibly just, or it is daringly criminal. Though false, it may terrify the Legislature from the honest discharge of their duty, and excite rebellious resistance on the part of the people.

Some members of the Irish Parliament have openly avowed this to be their reason for advancing it. The assistance which France gave to America is said to have been hinted at in

the debate, and yet, *proh curia inverstique mores!* the Speaker sat unmoved in his chair, like the devoted patriots of Rome, ready to receive the Gauls upon the ruins of their country. I do not impute bad motives to every man who has used this intemperate language. Like Dogberry and Verges in the play, their zeal may exceed their powers of thought, and their skill in language. Still Dogberry was a lucky fellow at detecting a conspiracy, and Verges, "good soul," was "as honest as the skin between his brows."

It was to be hoped that we had done with the wretched folly of resorting to abstract principles of Government. If the most profound and eloquent of mankind has yielded to the hand of death; if he who explained the intricate recesses of human nature, and trod the unfathomable depths of political science for our advantage, is, unfortunately, no more; surely that immortal blaze of light, which he shed over the world, as he sunk from it, is not yet extinguished. His words remain, and the spirit which he breathed over the public mind cannot have ceased to inspire us.

Is this a fit season to advance such doctrines, when the tremendous consequences of applying meta-

physical theories to practical government are raging over the globe, and pressing upon all mankind? He who is not cured by the example of France, will not be cured by argument. He demands the Hellebore of three Anticyras

Break one cobweb thro';
 He spins the slight self-pleasing thread anew.
 Destroy his fib, or sophistry; in vain!
 The creature's at his dirty work again.

Still as the principle has been advanced, it must be discussed, however abstruse in its nature, or dangerous in the application.

The best authority that I can find to support it, is that of Mr. Locke, in his *Treatise upon Government**, where he observes, "that the
 "Legislature cannot transfer the power of making laws to any other hands; for it being but
 "a delegated power from the people, they who
 "have it cannot pass it over to others."

This position seems to be misunderstood, when it is applied to the case of an incorporate union between independent Legislatures. But assuming, that it bears directly upon the point, we might op-

* Book 2, chap: 11, §. 141.

pose to this authority that of Grotius*, of Pufendorf†, of our own Lord Coke‡, and of Mr. Justice Blackstone¶. All these writers, whose books were not composed, as Locke's was, with a view to a particular event, and with reference to a limited controversy, invest the Legislature with the attribute of absolute and uncontrouled supremacy. The writers upon our Government boldly call it the omnipotence of Parliament||.

But authority ought not to have any weight, if advanced in contradiction to reason. Let us, therefore, venture upon the perils of this metaphysical question, and discuss its merits.

It is simply, *Whether the Legislatures of both countries have, each for its own nation, powers (under the contract supposed to exist between them and their people) to assent to an incor-*

* Lib. 1, cap 3, §. 27. † Lib. 7, cap. 6, §. 1. ‡ 4 Instit. p. 36. ¶ 1 Com. chap. 2, p. 160.

|| There is another authority, which, with some persons, may have greater weight; that of Algernon Sydney, in his discourses upon Government. He admits this supremacy, or, as he calls it, "arbitrary power," to exist in all Legislatures. But he distinguishes between free and tyrannical Governments, by the provision made to secure the salutary exercise of this their inherent right for the good of the people whom they govern. I quote from memory, and cannot immediately turn to the place; but I am sure that a passage to this effect is to be found in his works.

porate union? All consideration of the propriety of the scheme is excluded from this statement. The abstract position denies the competence of Parliament to enact the measure, be it ever so prudent or beneficial. The reason assigned is, that "*as all government emanates from the people, they have prescribed the form under which it is to be administered, and it cannot be changed without their express consent.*"

Those who trace the foundation of legislative controul to those real sources, which are discoverable in the history of mankind, must see that it is a power assumed, even in its most popular origin, by permission from the people, and never created by express delegation. It is indispensable to human happiness that it should exist under some shape or other; but the innumerable forms which it takes, are indebted for existence to usurpation, to time, to a singular current of events, and, perhaps, to every thing, and any thing but the deliberate choice of the people whom they rule.

But supposing this position erroneous, still it must be granted, that if the exclusive right to alter the frame of the Legislature be vested in the people, it has either been specifically reserved by some constitutional contract, or it must arise,

by necessary implication, from the nature and object of Government itself.

If it has been expressly reserved in any other country (which I deny), still that does not touch the people of these Islands, since no such written document exists in our constitution. Should any one maintain the contrary, with Locke, it is incumbent upon him to produce the record. If then it arises (as it must do) out of that unwritten compact which exists by necessary implication between the governors and the governed, we must, as in all other quasi-contracts, look to the object of the agreement, in order to discover its terms. Now, the admitted object of all legislative government is the good of the community. Whatever means are essential to attain this end, the people must be supposed to have granted, and the Legislature to have assumed.

The true question, therefore, is, Whether it be for the good of the community, that its members should collectively retain this power, or should delegate it to the Legislature. If the former, then I admit, that, under this view of the question, they must be supposed to have reserved it, where they have not expressly resigned it. If the latter, then it must be admitted to me, that they have virtually given it up by the contract. Nay, more, that

on this supposition they would be bound by the eternal principles of justice, and of the social compact itself, to forego the right, although reserved by express stipulation *. Now it is demonstrable that the great body of the people are incapable of exercising this power, except to their own ruin. Nothing less than direct inspiration could enable the multitude to decide upon rational grounds, as to the propriety of a change in the form of their Government. They possess neither leisure,

* It has been asserted by that fungus-politician Tom Paine, and his gang, that an uncontrollable right of doing what they please is vested in the majority of every community. This position manifests complete ignorance, both of the law of nature, and (if a difference can be made between them) of that compact under which Government exists. The majority have no more right to exercise any power which may injure the community, than they have to enact laws to encourage parricide or incest, or for putting the minority to death from dislike to their faces. The community at large derives its authority from the concession of each of its members. The individual surrenders his independent rights, in confidence that the united power of the whole community will be exerted and regulated so as to promote the common good of which he is to participate. If we could suppose a possible case in which an entire people, with the single exception of one man, should wish to infringe the social principle, that solitary person would possess the right of insisting upon its observance against the rest of the society, though made up of myriads of millions. This forms the great distinction between the social and the legislative compact. The majority can neither exercise nor invest others with power which is pernicious to the fundamentals of society; for they have not received it. They may delegate to a few whatever power they have obtained, and, by consequence, the entire rights and authorities of Government.

nor faculties, nor contemplative habits sufficient to entertain all the complicated and subtle relations of Government. They can neither ascertain those facts upon which the general happiness must depend, nor form any just conclusion as to the mode by which it could be attained.

To simplify the principles of Government down to the level of their understanding, would be to deceive them most cruelly upon the real merits of the question. To describe its mazes and intricacies; to trace its innumerable connections and dependencies upon all the moral and natural relations and habitudes of associated man, would surpass the limits of mortal eloquence, and would not be comprehended if it could be detailed*.

Let these theorists farther shew us, of whom this majority is to consist, and in what manner they are to give their opinion. Let them declare by what instinctive rules it can be ascertained,

* The very argument shews the incapacity of the people at large to exercise the right which they are supposed to retain, seeing the manner in which it is to be exercised must be pointed out to them. And this farther question is to be asked, Who possesses the right to point it out to them? If it is answered, every member of the community possesses this right; then it shews the danger to which the people are exposed, by the attempt to exercise it, seeing it subjects them to the machinations of the wicked, the disappointed, and the factious—in a word, to all the horrors of anarchy.

whether it is to be composed of males, of adults, of those who are emancipated, or of those who are not. Let them point out by whom the urns are to be held in which the discordant votes of these innumerable and motley tribes are to be gathered. Let them calculate the effects of momentary and passionate impulse, upon the most decided opinion, in a numerous assembly, murmuring, and tumultuous, and fluctuating as the ocean.

Any one of these difficulties will demonstrate the folly and impracticability of the theory which supposes that the loose and undisciplined body of the people retain a right to alter the Legislature. They labour under a physical incapacity to form an opinion of its most simple operations, and would find it impossible to declare that opinion, if they were able to form it. It is not less absurd to lay the foundations of Government in such an imaginary right, than it would be to ground it upon some hypothetic power, in the majority, to fly, or to live for ever.

By the very act of permitting a Legislature to assume its superintending functions, they acknowledge their incapacity to make a law; yet the question which concedes that they have done this, supposes that they retain a power of much more difficult exercise; that of altering the body itself, by which these very laws are framed and influenced.

But it will be said, that the people may delegate this reforming power to a select body, as they have done that of originating the law.

If these delegates were to be permanent, they would, in truth, constitute a paramount Legislature. If merely elective at uncertain discretionary periods, it would remove the objection but a single step. It would still leave the mass of the people judges of the necessity and the season for the change, and masters of the form and constitution of that delegated censorial body. It would dissolve the regulating powers of the state, and put every member of the community upon a level.

All representative governments whatever, not excepting the first constitution of France, have found it necessary to interdict some persons from the right to elect members for their deliberative councils, as being liable to undue influence, or unqualified to ascertain the merits of the several candidates. But in this supposed state of social equality, these restrictive qualifications could not exist, and classes of men, whose incapacity to choose a member of the Legislature, had been declared by the ordinary constitution, would be competent to elect and be elected, to fulfil that most grave and difficult of all tasks; to judge with temper, and limit or extend with moderation, the powers of those who are ultimately to govern them.

The wisest of human institutions is little more than a cautious balance of evils, and a choice of that state which is subject to the fewest inconveniencies. In order to prove, therefore, that the system is wholly unnatural, we may, not unfairly, contrast the mischiefs which might arise from entrusting this power to the Legislature itself with such as must spring up from suffering it to reside with the arithmetical majority of society.

Those who are accustomed to exercise the legislative functions of government are at least acquainted with such mischiefs as exist, and with the remedies by which they can be removed most effectually. Under the continuance of their management, the different functions of civil government, are permitted to perform their course, and no part of the constitution is disturbed, but that which is stopped and uncovered for necessary repair. The worst that can be supposed to follow is, that, from a wish to encrease their individual powers, they may tyrannically oppress the people. If they should thus forget their duty, the awful means of resistance, * which ultimately rest

* When I mention this dangerous doctrine of resistance, I cannot forbear quoting the opinion of one whose merit, as a political writer, is sufficient to render our language immortal, to shew the very narrow bounds to which he would wisely confine it.

with the nation, have not been taken from their hands.

It is with this inalienable right, to oppose and remedy such enormous practical oppression as arises from innovation, not merely in the constitutional form, but in the laws which emanate from it, that the present question is artfully confounded. The few who have argued it in Ireland have erroneously inferred a right to decide upon the theoretical expedience of political measures, from the right to complain of their mischievous effects. The last never can be taken away from the great body of the people; the first never can remain with them. If the conduct of Govern-

“The superlative line of demarcation where obedience ought to end, and resistance must begin, is faint and obscure, and not easily defineable. It is not a single act, nor a single event which determines it. Governments must be abused and deranged, indeed, before it can be thought of; and the prospect of the future must be as bad as the experience of the past. When things are in that lamentable condition, the nature of the disease is to indicate the remedy to those whom nature has qualified to administer in calamities this critical, ambiguous, bitter potion to the state. Times, and occasions, and provocations will teach their own lessons. The wise will determine from the gravity of the case; the irritable, from sensibility to oppression; the high minded, from disdain and indignation at abusive power in unworthy hands; the brave and bold, from the love of honourable danger in a generous cause; but with or without right, a revolution will be the very last resource of the thinking and the good.”

Reflections on the Revolution in France, &c. by the
Right Hon. Edmund Burke, p. 43.

ment is not regulated by an anxious desire to promote the good of the community, their compact with the people is violated. If the people do not suffer them to exercise all that power which is necessary to attain this good, they not only infringe their contract with their rulers, but the original compact with all of their own body who disapprove the restriction.

But it may be urged, that these inconveniencies could be avoided in our Constitution. Either the King or the House of Commons might refer the matter in contemplation to the decision of the entire body of those who return members to the Parliament. This practice would violate the ideal sovereignty of the people, no less, at least, than if the Parliament were to exercise the supreme power of themselves. The imaginary contract supposes the legislative Constitution established by a majority of the whole community, which the electors of this country neither are, nor ever have been. They are, in truth, nothing more than a set of delegates, exercising the right of election, as the Parliament does that of representation. Neither the mischief nor the impracticability of the system would be removed by such means. The foundations of lawful authority would be

loofened, and the principle upon which the sacrifice was made would not be preserved.

Yet such is the ground upon which statesmen in the British House of Commons have been willing to place our revolution. It is the great precedent from which they collect the principle and the rule. The revolution is a sacred subject, which ought not to be frequently and vulgarly handled. Grateful for the blessings which we have derived from it, let us not look too scrupulously into the means by which it was accomplished. But surely the candid historian, and the admiring statesman would rather place it upon any other ground, than one so utterly repugnant to truth as the previous consent of the people.

Let us now examine what the consequences must be, should the populace retain this right of alteration.

If they keep it in their own hands, I have already proved their inability to exercise it. If they delegate it to others, they are as liable to be deceived by them, as by their original Legislature. The allurements incident to great station and unlimited authority, must have more irresistible influence upon the hungry ambition of

temporary delegates, than upon the more sober and satisfied members of the ancient Government. Sudden elevation will render those most giddy who have been unused to walk the heights of power. The much-dreaded return to the insignificance of a private station, will render them anxious to assume those very authorities they were sent to reform. The French Revolution owes one half of its miseries to the pursuit of a scheme like this.

Have the advocates of this measure considered the political consequences of flattering those whose first duty it is to obey the laws*, with a notion that they possess an inherent ever-waking right to correct, and controul, and cashier their legislators? The servility of Asiatic courtiers, who ascribe immortality to their tyrant, is not less extravagant. Are they aware of the effects of turning man loose into a state of natural society; of unfixing his permanent habits of obedience; of removing his settled veneration for the Government under which he has been brought up; of rooting out those

* The leading characteristic of an Englishman is a reverence for the laws. His obedience is prompt, but not servile; because he knows that they are supreme, and command the peer as well as the peasant. If Englishmen shall cease to feel an instinctive reverence for the law and its officers, the main stay against the oppression of the rich, and the insolence of the poor, is weakened and gone; the force of our police is destroyed, and all the horrors of anarchy assail us.

hereditary prejudices which are the sheet-anchors of civil tranquillity? Would they unchain the human mind, if once fortunately curbed by the sage influence of social and practical wisdom, to range in the boundless wilds of metaphysical systems? Would they encourage us to intermeddle with vain scholastic questions and distinctions, which strong curiosity will excite us to raise, and our entangled judgment, and capricious passions render us unable to settle? Are they ignorant that from the first record of time to the present period, the violence of theoretic difference has shed more blood, and produced more wretchedness among our kind, than the united scourges of voluptuousness, avarice, and ambition?

No scheme of Government could appear more plausible in theory than that of an elective monarchy. It enabled the people to choose a person whose noble qualities pointed him out as one, foredoomed by the sacred marks of nature, to add grace and dignity to a throne. Yet the tumults and miseries attendant upon such an election, have induced all civilized nations to prefer that blind chance, which often raises up an ordinary nature to fill the chair of authority by hereditary succession, to this scheme, so brilliant in theory, and so vi-

cious in actual Government. If such a system is impracticable, what must be pronounced of the present fancy, in which not only the person, but the Government itself, would be elective;—in which the roots and foundations of society would be laid bare and unprotected to the merciless and wanton experiments of factious, or self-interested folly?

Neither does the argument solely rest upon the people's inability to exercise this right, and the miseries which they would pull down upon themselves and their children by such an attempt. This power of change is so much of the essence of legislation; so utterly inseparable from it, that it is impossible for the community to delegate the one, and retain the other. It has been observed by Mr. Burke, that "a state without the means of some change, "is without the means of its conservation." No Government can continue unalterable in its form for any considerable period. Instituted for the good of the people, it is not less the creature than the ruler of those casual circumstances upon which that good ever must depend. It must of necessity conform to that situation upon which it is to operate. It would soon become inert and useless, unless it possessed the plastic power to fit itself to the shape and gradual mutations of society; unless it were

able to contract, to expand, to wind and turn, to rise and sink, as times, as manners, as morals, as customs, as the state of popular information, and the degree of intercourse with other nations, influenced the constitution of society.

Those who would limit this restraint of the legislative power to the main timbers and grand balance-points of the Constitution, and leave the entire liberty of enactment open in all other points, are ignorant of the first rudiments of political science. The Constitution may be affected more materially in ten thousand ways, than by a direct alteration in its outline.— It would not be very easy to describe what are its fundamentals; and it would be impossible to foresee the innumerable means by which they must be affected, if they were specifically described. The discontinuance of a licenser of the press, and the establishment of mail coaches and turnpike roads, did more to infuse a popular spirit into our Government, and to give that spirit means to act, than the 8. Henry VI. which restricted the freehold qualifications to 40s. a year, did to repress it.

All Government is of human contrivance, and must partake of the frail corruption incident to humanity. The health and vigour of the wisest political institution may slip gradually away from us,

in analogy to life itself, before we perceive its decline. The main pillars of the state may seem fair and unimpaired to outward superficial examination, while their pith and strength is scooped and hollowed out by undermining reptile vermin. The surface may appear worm-eaten and time-gnawed, and yet this their rugged veteran front shall form a proof of their stability, not a mark of their decline. Can a Legislature exist without the power to adopt improvements to repair inveterate evils, to scale and remove, in the most effectual manner, the encroachments and incrustations of age, or without the means to remedy the ill consequences which their own inadvertant ordinances, may have had upon liberty and general happiness?

If the right to alter Government be thus inseparable from the powers of Government itself, no distinction can be made between it and that of making a total change, except as to the degree in which it is exercised. It must, in both cases, arise from a grave and irresistible conviction, that the act to be done is for the common good. Subject to this restriction; the one case and the other are either equally incompatible, or equally reconcileable, with the supposed theoretical compact.

But if there be any distinction between this right to alter, and one to make a total change, I am not very solicitous to destroy it; since an union will call for nothing more than a partial modification of the subsisting Legislature. It would not transfer the Government to any other hands, as has been falsely said, and, therefore, the passage I have cited from Locke, is not, in fact, against me. Each Legislature would retain its own weight and consequence in the coalesced Governments. It would do no more than alter its form, so far as to enable the united authorities to exert their wisdom most effectually for the advantage of the united people.

If these positions be true, they must apply to all Governments whatever. They are supported and bottomed upon the uniform practice of all countries and climates. The unbroken usage of every state and age, proves that this principle is as necessary to the existence of Government, as Government itself is to the happiness of mankind.

But the conclusion is, if possible, established more irrefragably by the dreadful consequences which have followed in France—from the vain attempt to depart from and counteract it. Against the truth of these principles, I am sure that the

example of no actual Government can be produced. I am aware of the cases of Moses, of Minos, of Solon, of Lycurgus, of Palantus, of Numa, of the Venetians, of the Jesuits in Paraguay, of the Dutch, of the Americans, and of many other instances of the origin of distinct states, and the establishment of certain juridical and constitutional codes. But when they are fairly examined, they will be found not to contradict, but to confirm the incompetence of the people to reform or change the Legislature, and the necessary inherence of such a power in the Government itself.

Let us, however, suppose that these conclusions are utterly destitute of rational foundation. Still it is admitted by Locke, and cannot be well denied by any advocate of this system, that the people of a country may entrust this right to the discretion of their particular Legislature. If they may do it, we may prove that they have done so, not only directly by what the system-mongers would call an express constitutional act, but also virtually by an implicit uniform acquiescence on their part in the claim and exercise of the power by their Legislature, from immemorial time.

That such a power has been reposed in our Parliament by the Constitution is evidenced, not by one or two examples, but by numberless instances, taken from the recorded transactions of every reign and period to whose history we can turn.

There is no one branch or department of our Legislature in which important changes have not been made by the "omnipotent powers of Parliament." New functions have been created by express statute—Old ones have been suffered to expire by tacit acquiescence. Prerogatives have faded, and popular privileges sprung up, from the same sources, and under the same superintending, correcting, and creative authority.

If Parliament are usurpers of this right, into what a situation is the country now reduced? But can we submit to the imputation? Is it not the first glory of our people and their Parliament, that the Constitution is one continued act and scheme of renovation and amendment?

Neither would I rest this principle upon the ground of popular acquiescence. The theory of our Constitution knows of no distinction between the people and their representatives. It has no language to express the one, which it must not use to denominate the other. Both are his "Ma-

jefty's faithful Commons," "his dutiful and loyal subjects." The whole country sits in the national council, so far as it can practically deliberate. The House of Commons are the speakers and counsellors chosen to represent in Parliament the entire commons of the realm. The people have elected a denouncing organ in them, from the same necessity, and in the same spirit, that they choose a Speaker to address the remaining branches of the Legislature.

But whatever may be the principle on which this authority is founded, it cannot destroy the certainty of its existence, as embodied in numerous examples.

It must not be denied that the King is an essential branch of the Legislature, and that the descent of the Crown was anciently regulated by hereditary succession, uncontrouled by particular limitation. If we were, upon the same grounds on which theorists build their systems, to infer the necessary consent of the people, because the source and manner of its origin is melted down in the darkness of remote antiquity, there is no part or principle of the Constitution so firmly established as the hereditary rights and undiminished transmissive powers of the Crown. Yet in what various instances has the usual course of succession

been altered, and limited by the sovereign competency of Parliament. Not to go back to periods when acts of violence might render the authority disputable, it was done in the case of Edward IV. of Henry VII. and Henry VIII. Of Elizabeth, of William and Mary, and Queen Anne. In not one of these instances has the power been questioned. It is by the support and exercise of this authority that his present Majesty sits firmly upon his throne. Will those who have pledged themselves, by solemn oaths of allegiance, to support him there, venture to controvert the principle and the statute by which the crown is placed upon his head? Every branch of the royal prerogative is no less a part of the Constitution, than this of succession to the throne by hereditary right; yet the history of every reign is little more than a continued narrative of its diminution or encrease.

The House of Lords has undergone less changes than any other part of the Legislature. Yet it became separate from the lower House by accident*. It has lost the right of altering money-bills by a discussion with the Commons; it has been gradually deprived of many judicial privileges, and has assumed others in their room.

* The Lords and Commons sat in the same chamber so late as the reign of Edward I. See 2 Inst. 274.

But the Commons' House of Parliament affords more numerous and striking instances of incessant change by legislative wisdom, than every other branch of the Constitution. I do not wish to detract from that proud descent, with which those who love the institution for the sake of liberty, are anxious to ennoble it. But it cannot be denied that the Crown possessed the absolute power of sending and discontinuing its summons to such towns and places as it thought proper. That by these means it could encrease or diminish, at pleasure, the number, and change the mode of electing, the representatives of the people. Under Henry VI. the right of voting for county members was restricted to inhabitants who possess an annual freehold of 40s. In the reign of Charles II. it was enacted, that the King should summon a Parliament, at least, once in three years. It is not to be denied, that a discretionary prerogative, both as to the number and time at which the Parliament was to assemble, was thus formerly inherent in the Crown. Much less can it be denied, that it was highly for the people's advantage, that the Sovereign should forego this paternal and suspicious tutelage of the Legislature. Has it ever entered into the head of any man, that the Sovereign had no right, under the tacit acquiescence of the remaining branches of the Legislature, to surrender the one by

desuetude, and that Parliament could take away the other by express law?

By virtue of the same principle, rectified in a more legitimate process, the Constitution has been changed, and various regulations of the elective franchises have been instituted during the present century. The much admired provisions of Mr. Grenville's bill are among the strongest instances of this kind. Under the same authority the constitution of particular boroughs has been radically changed. The duration of Parliament itself has been curtailed or lengthened, according to the exigence of seasons, and the variation of legislative opinions. If further authority be wanting, let me ask, upon what other principle have the various motions been made for a reform in the mode of electing our parliamentary representatives? Is it possible that any member in the Irish House of Commons can have denied the existence of this right, who made a refusal on the part of that House, to exercise it upon the subject of reform, a pretext for sculking from his duty?

How can we distinguish any one of these cases, in constitutional principle, from that of an incorporate union? But if there ever was an instance, which, from frequent occurrence, has be-

come too authoritative for speculation to controvert, we should cite, by way of pre-eminence, this very example of an union.

The cases in which it has taken place in this country are manifold. It occurred in the instance of Cumberland, of Berwick upon Tweed, of Chester, of Calais,* of Wales, and even of Ireland itself, for a limited season. It might have been said, in behalf of these inferior districts, that they were not fully consulted upon the terms of their union. But was the competence of the English Parliament to assent to such a conjunction, and to admit the Representatives of these countries into a community of rights with the Commons of England, ever disputed? Can the present power of the British and Irish Legislature stand upon a different footing from that in which those of England then stood?

But the case of Scotland, which is a counter type, in every particular, of that which is now proposed, is paramount to all controversy. It was a scheme kept alive, and continued in this country from the time of Edward I. down to

* This town sent Representatives to Parliament in the time of Henry VIII.

that of its final and happy accomplishment in the reign of Queen Anne. It was particularly pressed when James I. sat upon the throne, and Lord Bacon was his Chancellor. It was agitated while Lord Somers was in the cabinet, during the reigns of King William and Queen Anne. In these latter periods there existed an high-flying party, who carried their notions of civil freedom to the utmost bounds and verge of practical possibility. But neither the sober, manly views of rational liberty entertained by Lord Somers, nor the bolder and less manageable notions of statesmen, whose minds were stained with the lees of a spirit drawn from recent rebellion, saw in this measure any danger to the principles of our Constitution.

The question of incompetence was actually debated in the Scots Parliament, and the argument made no impression either upon the majority of that House, or upon the people of England. We have the acquiescence of both countries under the measure, for near a century, in confirmation of the act which it had been the work of so many centuries to mature.

Various instances might be given from the history of Ireland, of a similar exercise of the

like supreme power by her native Parliament. But they are unnecessary, as it cannot be contended that her Constitution differs radically from that of Great Britain, or is founded upon different and more popular principles of freedom.

With such various undisputed examples in which the right has been acted upon, lying, as it were, afloat upon the surface of our history, how could any lawyer pledge himself to a solemn denial of its existence? Must not a grave senator blush at his ignorance of the duties of his station, when he voluntarily casts down, and tramples beneath his foot, privileges of his order, the most inalienable, as being the most indispensable, to the public happiness.

I should be very sorry to open any discussion upon the temper and spirit in which the debate upon that part of the address, which was supposed to refer to an union, was conducted in the Irish House of Commons. Charges of corruption and intimidation are easily made. When unsupported by proof, they can meet with no credit, except from those who feel an internal consciousness that they would yield to the one, and employ the other. I would resist the application of either to influence the determination of

Ireland, to the utmost of my humble means. But let no man mistake unqualified opposition for the criterion of patriotism, nor acquiescence in the measures of Government for an unerring proof of servile venality.

Those who profess these alarms, may forego the counterfeited terror. They are well assured that no such attempt will be made. But if the Ministers of the Crown are fully convinced that the measure is necessary, they are not to be deterred from their duty by an ill-considered vote, or by false and silly insinuations. They are bound to submit, at some more temperate season, to the awakened wisdom of the Legislature, the means of securing the safety and the happiness of both kingdoms.

It is impossible not to see that many cogent reasons to enforce the necessity of an union, arise out of that very debate in which the Commons refused to consider it.

To dwell upon the obsolete oppressions of England, and to traduce her wishes for an union, founded upon the common benefit of both kingdoms, as an artful attempt to reduce Ireland, in the hour of distress, to her former

state of dependence, are but sorry symptoms of that according affectionate spirit between the Legislatures, which could alone render their incorporation unnecessary. The mode in which this first measure, requiring the reciprocal consideration of both Parliaments, has been disposed of in the lesser kingdom, is an unfortunate and ill-omened example of the facility with which the separate and independent Legislatures can be induced cordially to co-operate for the common good.

The recommendation to consider the state of both kingdoms came from the Sovereign. His Parliament must have known that it was advised by the British Cabinet, and that, from the nature of the subject, it must be also proposed to the British Parliament. Where can we discover, in this abrupt refusal of all discussion, that respect for the Imperial Government of Great Britain, which is said to supersede the necessity of an incorporate Legislature? If the Irish Commons are irreconcilable enemies to an union, they ought to reject it. But, could it have been wrong to have taken advantage of the indefinite language of the Viceroy's speech, and made a temperate pause until they under-

stood the nature of the proposed arrangement, and discovered the views of the sister Parliament.

At present, the triumph of prudence and moderation is on the side of this country. It is a pre-eminence in which she must take greater pride, than in any she can derive from superior power, or that assistance and support which she affords her struggling sister. The great outlines of the measure are before the British Parliament, and will, I trust, be soon laid before that of Ireland. I am sanguine enough to hope that it may still meet with the concurrence of her Legislature, and the approbation of her people. When passion and violence give way to calm discussion, I defy any man to point out in what respect the dignity, the interests, or the real independence of Ireland, can be injured by an arrangement formed upon such a basis.

To talk of the particular protection of a resident Parliament in Ireland, is to amuse the people with childish prattle. Those parts of its past conduct, which have been arraigned most forcibly, respect the internal Administration of

the country. Is the real presence of the Legislature necessary to widen a street, to erect a custom-house, to make a road, to construct a canal, to build a bridge, or to found an hospital? Has the local improvement of Scotland been neglected, because her Legislature is removed to the capital of England?

I mean no disrespect to the Irish House of Commons by the observations which I make. They are wrung from me with painful reluctance. I forbear all remark upon the defects of its Constitution, or the state of its parties. It is to me a distressing reflection, that the recent conduct of the majority hurries on the time, when these festering wounds will be exposed to the bleak and biting air, by events which cannot provide for their sorrow, or their shame, as the friends of an union would have done.

Though it may appear presumptuous, yet I must say, in the fullest conviction of truth, that those Irishmen who oppose an union, are not less strangers to the state of their own country, than to the concerns of the empire, and the condition of Europe. I do not allude to her commercial interests, since ignorance, on this topic, has become a subject for boast to the patriot. They seem to know nothing of the strength and

views of their domestic parties, and of the inevitable consequences which must result from their different movements. The slumbering claims of reform, and Catholic emancipation, have been already roused by this vote of the House of Commons. In rejecting the union, they have left no other hope to the Catholics than such as must arise from the total destruction of the present parliamentary Constitution. It was the sole means of averting that impending struggle, where little more than the skirmishing of a few out-posts has hitherto taken place. Of this the country may rest assured. Nothing less than the speedy accomplishment of a reform in Parliament, or an union between the kingdoms, can prevent a general revolt. The state of the public mind will not admit of partial and temporary expedients. If the Legislatures continue separate, a reform in Parliament must ruin the Protestant establishment, and may ultimately dissolve the connection between the islands. An union must preserve both, and will finally secure to the Catholics, by peace, those rights, which they may vainly attempt to wrest from the Irish aristocracy by the sword.

May that dreadful period never arrive, in which the Irish country gentleman shall be practically taught that the measure is indispensable,

to remedy the encreasing miseries of his country. It is the duty of the British Cabinet, and of the Irish Government, to lay a system dispassionately before the Legislature, which can alone avert that æra of calamities which the people have partially experienced in the recent rebellion. I do hope the present season may yet be taken advantage of, while the strength of both countries is entire.

Those who are acquainted with the manners of Ireland, may fairly infer, from so few addresses having been presented against the measure, that it is not disapproved of by a majority of the country. I freely admit, that many most respectable members in the Irish House of Commons voted against the address. Yet I can say, that some of these votes were influenced by other resentments than such as originated from the measure itself.

I hope better from their good sense and virtue, when the great interests of their country are more fully considered. The silly magic of the word independence, as it contains no cure for the miseries of the kingdom, should have no influence upon a manly mind. I augur well from the natural temper of Ireland. There are no people whose disposition is more disinterested and

open. Abrupt, irritable, and impatient of imaginary insult, their faults are the excesses of a noble and honest nature. Even the precipitancy with which they have rejected the measure, may ultimately serve it. Shame for past errors rouses and puts into motion the full energies of a generous mind.

Tum pudor incendit vires, et conscia virtus.

They cannot reject the solemn opinion of the British Parliament, without deliberation. No more is wanting to carry the measure. It is of discussion that the self-interested enemies of an union are really afraid. This is the secret reason of the precipitate vote upon the address.

Nothing is now left unattempted on the part of Great Britain. She urges an union as necessary to preserve the Irish church, to protect the Protestant property, to restore the Catholic freedom, to augment the commerce, and ameliorate the civil condition of the Irish people. It is proposed by the British Parliament, and by their King, to ensure a common interest and mutual affection between the inhabitants of both countries, to prevent rebellion, to frustrate our enemies, to augment the powers of the empire, during a war almost interminable, to add strength and firmness to the last bulwark, which stands

before the social happiness and independence of Europe. An union is recorded as the solemn judgment of this country, upon the mutual interest of both. The objects recommended to the wisdom of the Irish Parliament, are not less valuable to them than to us. Should they reject the means to preserve and promote them, they are answerable for the consequences to their country and the empire. It is a dreadful responsibility!



THE END.